From: david@wt6.usdoj.gov@inetgw
To: Microsoft ATR
Date: 12/3/01 6:18pm

I have not been able to get the full text of the proposed Microsoft settlement. I am responding to the following quote from www.redhat.com/about/presscenter/2001/press_usschools.html

> Microsoft had proposed that, in settlement
> of class-action claims of price-gouging, the
> company donate computer hardware, software and
> support to 14,000 poor school districts
> throughout the United States. Under the
> proposed settlement, a substantial part
> of the value provided to schools would be
> in the form of Microsoft software.

I agree with Red Hat Software's conclusion that allowing Microsoft to reduce restrictions by donating software is poor public policy. I would argue that one, such donations cost Microsoft far less than their stated value, and two, they encourage the very behavior the consent decree is intended to prevent.

Please consider banning Microsoft from including the values of their own products in the valuation of any donation made under the consent decree. This will encourage them to donate much-needed hardware without providing them with greater market share.

POINT ONE: Software production costs, far more than production costs for any other good, are almost entirely spent in development. As Microsoft itself has pointed out during complaints against software piracy, it costs perhaps five or ten cents to produce a copy of an existing disk. Furthermore, in most cases the actual disks are not included with new computers; the programs simply are copied to the new computer's disk. It is not inconceivable that in this case the production cost may, in fact, be well below a penny per computer.

If you will concede that a poor school is unlikely to purchase a new computer and is more likely to simply make do with donations, then software donations should not be viewed as lost sales.

Therefore, it can be concluded that software donations cost Microsoft almost nothing, and therefore do not, in themselves, punish Microsoft.

POINT TWO: Academia is one of very few areas where Microsoft is not the leading software provider. By donating large amounts of their software, Microsoft extends their market share, at no cost, while gaining a great deal of positive publicity. I am most concerned with

the the market extension, since it will provide them with yet another foothold with which to maintain their monopoly.